



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/172505

PRELIMINARY RECITALS

Pursuant to a petition filed March 05, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance (MA), a hearing was held on May 24, 2016, at Elkhorn, Wisconsin.

The issue for determination is whether Petitioner's appeal is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Dr. [REDACTED], DDS
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Walworth County.
2. A prior authorization (PA) request seeking Medicaid payment for upper and lower partial dentures was filed on behalf of Petitioner on or about November 12, 2015.

3. The notice indicating the Department's disposition of this PA is dated January 11, 2016 and states that the appeal deadline is February 25, 2016 – a Thursday. That notice was sent to Petitioner at the address noted on the PA as well as her appeal though it since changed. This appeal was filed with the Division of Hearings and Appeals on Thursday, March 5, 2016 – this is the postmark date.

DISCUSSION

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. A timely hearing request concerning Medicaid matters must be filed within 45 days of the notice of the agency decision. §49.45(5)(a), *Wis. Stats.*

The appeal deadline time limit for this case was August 7, 2015. It was noted to be received on the postmark date which was September 3, 2015. As the appeal was filed the appeal deadline, the Division of Hearings and Appeals no longer has authority to make a determination on the merits of this matter. The Division of Hearings and Appeals has no legal authority to expand these time limits.

A new PA may be filed and Petitioner may wish to ask her dental provider to include information about her bypass surgery and diet.

CONCLUSIONS OF LAW

That the Division of Hearings and Appeals is without legal authority to decide the merits of this appeal as the appeal was not timely filed.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st day of July, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 1, 2016.

Division of Health Care Access and Accountability